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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,863	05/06/2002	Olle Olsson		8537

7590 02/24/2005

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EXAMINER

KERSHTEYN, IGOR

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 02/24/2005

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/031,863
Filing Date: May 06, 2002
Appellant(s): OLSSON, OLLE

MAILED

FEB 24 2005

GROUP 3700

John C. Freeman (Reg. No. 34,483)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 22, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

This appeal involves claims 1, 4-13, and 16.

Claims 2,3,14,15, and 17 are allowed.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

5,513,467	Current et al.	5-1996
3,815,361	Manini	6-1974

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 4-13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Current et al. in view of Manini as set forth in the final rejection mailed 1/20/04.

(10) Response to Argument

Argument A.

Appellant, on page 9, has argued that the "Office Action fails to take into account other structure in Current et al. that teaches away from such a combination. In particular, Current et al. discloses using a bearing and sealing wiper arrangement 80

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within plug 50 “for ensuring oil from the door closing assembly 50 (located outside the volume of space between pistons 72 and 106) does not enter the separate chamber 54” (Col. 3, ll. 47-50)(parenthetical material and emphasis supplied). In other words, Current et al. expressly states that no oil or any other compressive force transmissive medium is to be present within the annular volume of space. Such a teaching away would dissuade one of ordinary skill in the art from inserting Manini’s hydraulic fluid in the annular volume of space of Current et al.”

Appellant’s argument is not agreed with for the following two reasons:

First, in column 3, lines 46-50, Current et al. recites “(t)he rod 78 is supported by a bearing and seal wiper arrangement 80 housed within the end plug 58 for ensuring oil from the door closing assembly 50 does not enter the separate chamber 54.”, which statement can not teach away from combining the references of Current et al. and Manini because Current et al. use a different method of transmitting force between the two pistons and it is nowhere found in Current et al. that explicitly states that hydraulic fluid cannot be used to transmit force between the two pistons.

Second, the examiner’s rejection under 35 U.S.C. 103(a) is not based on filling the volume 52 of Current et al. with hydraulic fluid; rather the obviousness rationale is in replacing the mechanical connection between the two pistons of Current et al. with the hydraulic connection of Manini that would transfer force from the drive element to the driven element by using the concept of fluid power as taught by Manini.

Argument B.

Appellant, I page 11, has argued that “claim 11 depends indirectly on claim 1 and so its rejection is improper and should be withdrawn for at least the same reasons stated above in Section VII.A with respect to claim 1”. This argument is not agreed with by the examiner for the reasons set forth in the response to Argument A, above.

Further, on pages 11-12, Appellant has argued that “(t)he rejection is improper for the additional reason that claim 11 recites a transmission that gives linear motion to the movable closure. In contrast, Current et al. discloses that link arm 38 is subjected to a clockwise rotating force from the power door operator, (Col. 3, ll. 1-4), such a force causes linking arm 38 to rotate in a clockwise direction resulting in the opening of the door 12. (Col. 2, l. 63 - Col. 3, l. 1). The door 12 rotates/pivots about a vertical axis as shown in FIG. 1. There is no disclosure or suggestion in Current et al. to have linking arm 28 provide the door 12 a linear motion. Without such disclosure or motivation, the rejection is improper and should be withdrawn.”

Applicant's argument is not agreed with. The motion exhibited in the link arm 28 is not only merely a rotating motion; it can be characterized as a linear motion as well. As the link arm is in motion, each point on the link arm experiences a linear motion in two directions because the motion is the combination of its vector components of motion in the X and Y directions on a Cartesian plane. Thus, Current et al do satisfy the claimed limitation “wherein the transmission gives the movable closure a linear motion.”

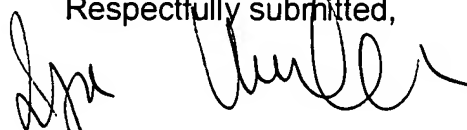
It is noted that Applicant's entire disclosure is silent as to the details of how its transmission is capable of giving its movable closure a linear motion. In Figures 1 and 2, Applicant's transmission 15-20 converts the linear motion of rack 15 to a rotary

motion in the output shaft 20. This is similar to the transmission in Current et al. where the linear motion of rack 112 is converted to a rotary motion in the output shaft B. However, Current et al. discloses even more in that they show the output shaft B producing motion in an output member 28 (see Figure 1), which as discussed above, exhibits both a linear motion (in two vector component directions) and a rotary motion.

After the Appeal decision has been rendered, the examiner intends to require Applicant to illustrate the claimed limitation in claim 11 which recites that "the transmission gives the movable closure a linear motion" for compliance with 37 CFR 1.83(a). This objection to the drawings was not noticed until this time and the examiner regrets that it was not noted earlier in the prosecution.


For the above reasons, it is believed that the rejection should be sustained.

Respectfully submitted,




Igor Kershteyn

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